

BORA LASKIN LAW LIBRARY



3 1761 03325 0762

IMMIGRATION LAW

Materials and Cases

Prepared by Nancy Goodman

September 1993

Faculty of Law

University of Toronto



UNIVERSITY OF TORONTO  
IMMIGRATION LAW

Materials and Cases

Prepared by Nancy Goodman

September 1993

Faculty of Law

University of Toronto

KF4483

I5

G66

1993.

A faint, large watermark of a classical building with four columns and a triangular pediment is centered in the background.

Digitized by the Internet Archive  
in 2018 with funding from  
University of Toronto

## TABLE OF CONTENTS

### ADMISSION TO CANADA

#### APPLICATIONS FOR PERMANENT RESIDENT STATUS

##### Applications from Outside Canada

	<u>Page</u>
<u>The Right to Apply</u>	
Re Minister of Manpower and Immigration and Tsiafakis (1977) 73 D.L.R. (3d) 140 . . . . .	1
"IMM-8" Application for Permanent Residence Form . . . . .	5

##### Family Class

Bud Singh Gill v. M.E.I. (1984) 60 N.R . . . . .	9
Regulatory Impact Analysis Statement	
Regulation S.O.R./91-383-01 Concerning Dependency . . . . .	11

##### Assisted Relatives

Bhadauria v. M.M.I. [1978] 1 F.C. 229. . . . .	15
--	----

##### Undertakings of Assistance

Undertaking of Assistance Form. . . . .	19
Evaluation of Guarantors' Financial Circumstances Form. . . . .	20
Low-Income Cut-off of Family Units, Immigration Manual, Immigration Guidelines IS4 App. "G". . . . .	21
Bilson v. Kokotow et al. (1975) 8 O.R. (2d) 263 (High Court). . . . .	22
Bilson v. Kokotow et al (1978) 23 O.R. (2d) 720 (Court of Appeal). . . . .	27
Ramaswami v. Andrew unreported Provincial Court (Family Division) January, 1984. . . . .	28

##### Applications for Permanent Resident Status for Independent Applicants and Assisted Relatives

"Fishing for Immigrants in Streams and Pools: Phase I - New Selection Criteria" prepared for L.S.U.C./CBAO Seminar	
"Understanding The New Immigration Act: How Bill C-86 Rewrites the Law" Jan. 15, 1993. . . . .	33
Canada Gazette Part I, Excerpts from Amendments to Immigration Regulations May 22, 1993. . . . .	41
Minister of Employment and Immigration, Excerpts from "Backgrounder: Regulations Consequent to Revised Immigration Act (Phase II)" May 25, 1993. . . . .	43
General Occupations List - 1993 and Designated Occupations List - 1993. . . . .	45
Calculation of Experience Factor to be incorporated in Immigration Manual, Immigration Guideline IS4 App. "A" . . . . .	59
Hajariwala v. Canada (M.E.I.) et al. (1988) 6 Imm. L.R. (2d) 222 . . . . .	60
Zeng v. M.E.I. 12 Imm. L.R. (2d) 167 . . . . .	64
Muliadi v. M.E.I. (1986) 66 N.R. 8. . . . .	66
D'Souza v. M.E.I. et al. (1990) 12 Imm. L.R. (2d) 268. . . . .	71
Chen v. M.E.I. (1991) 13 Imm. L.R. (2d) 172. . . . .	80
Yang v. M.E.I. 8 Imm. L.R. (2d) 48. . . . .	85
M.E.I. v. Pizzaro de Decaro unreported F.C.A. No. A-916-90 March, 1993 . . . . .	89

##### Applications from Inside Canada

##### The Right to Apply

Lawrence v. M.E.I. [1980] 1 F.C. 779. . . . .	107
Jiminez-Perez and Reid v. M.E.I., Boisvert and Lawson (1982) 45 N.R. 149. . . . .	117
Jiminez-Perez and Reid v. M.E.I., Boisvert and Lawson (1984) 56 N.R. 215. . . . .	126
Sobrie v. M.E.I. (1987) 3 Imm. L.R. (2d) 81. . . . .	129

Grounds for Applications from Inside Canada

Immigration Manual, Immigration Guidelines IE9, and IS1.17. . . . .	134
Sobrie v. M.E.I. <u>Supra</u> . . . . .	129
Aujla v. M.M.I. unreported F.C.T.D. No. T-4694-81 Oct., 1981. . .	143
Grewal v. M.E.I. unreported F.C.T.D. No. T-1505-92 March, 1993 .	145
Coombs v. M.E.I. unreported F.C.T.D. No. 92-T-1353 Jan., 1993. .	151
Smith v. M.E.I. unreported F.C.T.D. No. 92-T-1552 Nov., 1993 .	155
Pinto v. M.E.I. et al. (1990) 12 Imm. L.R. (2d) 194. . . . .	165
Yhap v. Canada (M.E.I.) 9 Imm. L.R. (2d) 243 . . . . .	173
Vidal v. M.E.I.; Dadwah v. M.E.I. 13 Imm. L.R. (2d) 123 . . . .	183

Minister's Permits

Hardayal v. M.M.I. (1977) 50 N.R. 396.. . . . .	194
Re Mauger v. M.E.I. (1980) 119 D.L.R. (3d) 54. . . . .	199

RECENT CHANGES TO CANADIAN IMMIGRATION LAW:  
THE FIVE YEAR PLAN

Annual Report to Parliament "Immigration Plan for 1991-1995" October, 1990 (excerpts) . . . . .	211
Annual Report to Parliament "Immigration Plan for 1991-1995, Year Two", November, 1991 . . . . .	217
Immigration Canada, "Managing Immigration: A Framework for the 1990's" June, 1992. . . . .	227
Annual Report to Parliament "Immigration Plan for 1991-1995, Year Three" December 3, 1992. . . . .	254
Canadian Immigration, 1860-1989 Historical Perspective . . . .	259

APPLICATIONS FOR VISITOR'S STATUS:  
TOURISTS & STUDENTS & WORKERS

"Students", "Applications for Employment Authorizations" in Law Union of Ontario, The Immigrants' Handbook:

<u>A Critical Guide</u> . . . . .	261
Immigration Manual, Immigration Guidelines IS 15.11, 15.12 and 15.15. . . . .	
Validation Exemptions for Students . . . . .	263
Re Jonas and Therrien et al (1977) 75 D.L.R. (3d) 635 . . . .	266
The Way Biblical Research and Teaching Ministry of Canada v. C.E.I.C. Commission and M.E.I. and Secretary of State for External Affairs [1983] 1 F.C. 467 . . . . .	267
D'Souza v. M.E.I. et al. <u>Supra</u> . . . . .	71
Lu v. M.E.I. unreported F.C.T.D. No. T-4133-80 Sept. 1980. . . .	272
Grewal v. M.E.I. (1989) 8 Imm.L.R. (2d) 100 . . . . .	280
Badhwar v. M.E.I.unreported F.C.T.D. No. T-151-83 Dec. 1983 . .	283

INADMISSIBILITY TO CANADA AND REMOVAL AFTER ADMISSION TO CANADA

Inadmissible and Removable Classes

Medical Inadmissibility

Ahir v. M.E.I. (1983) 49 N.R. 185 . . . . .	290
Mohamed v. M.E.I. (1986) 68 N.R. 220 . . . . .	293
Uppal v. M.E.I. (1987) 2 Imm. L.R. (2d) 143 . . . . .	297

Nongenuine Visitors

Shafi-Javid v. M.M.I. (1976) 71 D.L.R. (3d) 251 . . . . .	304
Chan et al. v. M.M.I. (1977) 16 N.R. 301 . . . . .	307
Baljit Singh Gill v.M.E.I. [1981] 1 F.C. 615 . . . . .	310

<u>Failure to Answer Truthfully</u>	
Kang v. M.E.I. (1978) 37 N.R. 551 . . . . .	313
Mundi v. M.E.I. (1985) 63 N.R. 310 . . . . .	317
Chen v. M.E.I. <u>Supra</u> . . . . .	80
<u>Failure to Establish Intention to Immigrate</u>	
Pangli v. M.E.I. (1987) 81 N.R. 217 . . . . .	321
<u>Contravention of Terms and Conditions</u>	
Gabriel v. M.E.I. (1984) 60 N.R. 108 . . . . .	323
<u>False or Improperly Obtained Documents; Fraudulent or Improper Means; Misrepresentation of a Material Fact</u>	
M.M.I. v. Brooks (1973) 36 D.L.R. (3d) 523 . . . . .	324
Khamsei v. M.E.I. [1981] 1 F.C. 222 . . . . .	333
Medel v. M.E.I. (1990) 113 N.R. . . . .	336
<u>Employment Contrary to the Act or Regulations</u>	
Georgas v. M.E.I. (1978) 23 N.R. 437 . . . . .	338
<u>Criminal Activity; Criminal Equivalency; Relationship between Immigration and Criminal Law</u>	
Brannson v. M.E.I. (1980) 34 N.R. 411 . . . . .	339
Hill v. M.E.I. (1987) 73 N.R. 315 . . . . .	356
Re Lew and M.M.I. (1974) 20 C.C.C. (2d) 127 . . . . .	359
Regina v. Melo (1975) 26 C.C.C. 511 . . . . .	360
<u>Rehabilitation After Criminal Conviction</u>	
M.E.I. v. Hardeep Kaur Gill (1991) 137 N.R. 373. . . . .	364
<u>Deportation of Permanent Residents for Criminal Offences</u>	
Chiarelli v. M.E.I. (1992) 135 N.R. 161 . . . . .	366
 <u>THE INQUIRY PROCESS</u>	
<u>Security Certificates</u>	
Re Mahmoud Abu Shandi (1992) 17 Imm. L.R. 54. . . . .	403
Chiarelli v. M.E.I. <u>Supra</u> . . . . .	366
<u>Commencement of Inquiry Process: Duty to Act Fairly</u>	
Kindler v. M.E.I. (1987) 80 N.R. 388 (F.C.A.) . . . . .	410
<u>Adjournments</u>	
Prasad v. M.E.I. (1989) 93 N.R. 81 . . . . .	414
<u>Person Concerned's Obligation to Give Evidence</u>	
Regina v. Cole (1980) 115 D.L.R. (3d) 382 . . . . .	421
Regina v. Forrester (1982) 2 C.C.C. (2d) 467 . . . . .	432
Bowen v. M.E.I. (1984) 58 N.R. 223 . . . . .	435
<u>Admissible Evidence</u>	
Re Cheung and M.E.I. (1981) 122 D.L.R. (3d) 41 . . . . .	438
Singh v. M.E.I. (1982) 41 N.R. 439 . . . . .	442
Lau v. M.E.I. (1984) 52 N.R. 63 . . . . .	445
<u>Deportation Order versus Departure Order</u>	
Lau v. M.E.I. <u>Supra</u> . . . . .	445
Yan v. M.E.I. (1987) 84 N.R. 210 . . . . .	449
Singh v. M.E.I. <u>Supra</u> . . . . .	442

## **CONVENTION REFUGEES**

## The Definition of Convention Refugee

Louis-Paul Mingot (1973) I.A.C. Vol. 8	351	456
Astudillo v. M.E.I. (1979) 31 N.R.	121	466
Gonzalez v. M.E.I. [1981] 2 F.C.	781	468
Amayo v. M.E.I. [1931] 1 F.C.	520	469
Rajudeen v. M.E.I. (1984) 33 N.R.	129	470
Padilla v. M.E.I. (1991) 13 Imm. L.R. (2d)	1	474
Salibian v. M.E.I. (1990) 11 Imm. L.R. (2d)	165	476
Attorney General of Canada v. Ward (1993) unreported S.C.C. #2		
1937 June 30, 1993		482
Zalzali v. M.E.I. (1991) 126 N.R.	126	520
Veeravagu v. M.E.I. unreported F.C.A. No. A-630-89	May, 1992	528
Rasaratnam v. M.E.I. (1991) 140 N.R.	138	530
M.E.I. v. Villafranca (1992) 18 Imm.L.R. (2d)	130	532
Cheung v. M.E.I. unreported F.C.A. No. A-785-91	April, 1993	534
Dehghani v. M.E.I. March 25, 1993 (Supreme Court of Canada)		553
M.E.I. v. Agbasi unreported F.C.T.D. No. T-990-92	Feb., 1993	582
Adjei v. M.E.I. (1989) 7 Imm. L.R. (2d)	169	601

## **Exclusion from and Cessation of Refugee Status**

Ramirez v. M.E.I. (1992) 135 N.R. 390 . . . . . 605  
M.E.I. v. Obstoj (1992) 142 N.R. 81. . . . . 612

## The Right to an Oral Hearing

## Findings of Credibility

## APPLICATION OF THE CHARTER OF RIGHTS TO IMMIGRATION LAW

"Advocacy, Immigration and the Charter" by Barbara Jackman	
9 Imm. L.R. (2d) 286 . . . . .	649
Prata v. M.M.I. (1976) 3 N.R. 484 . . . . .	656
Singh, Thandi, Mann, Singh, Gill, Indrani Singh v. M.E.I. <u>Supra</u> . . . . .	625
Kindler v. M.E.I. <u>Supra</u> . . . . .	410
Chiarelli v. M.E.I. <u>Supra</u> . . . . .	366

## APPEALS AND JUDICIAL REVIEW

## The Immigration and Refugee Board

Boulis v. M.M.I. (1972) 26 D.L.R. (3d) 216. . . . .	660
Castro v. M.E.I. (1988) 86 N.R. 356. . . . .	664
Le Ministre de L'Emploi et de L'Immigration v. Taysir Dan-Ash (1988) 93 N.R. 33. . . . .	666
Rajpaul v. M.E.I. (1988) 5 Imm. L.R. (2d) 97 . . . . .	667

## The Federal Court of Canada

CANADIAN CITIZENSHIP

Citizenship Act 1974-75-76 C. 108 S.5. . . . .	680
Re Papadogiorgakis (1978) 88 D.L.R. (3d) 243 . . . . .	681
Re Lau (1990) 10 Imm. L.R. 293 . . . . .	684
Re Chee Chow David Koo unreported F.C.T.D. No. T-20-92 Dec., 1992. . . . .	688
Re Abolghasem Pourghasemi unreported F.C.T.D. No. T-80-92 Mar., 1993 . . . . .	703
Minister of State for Multiculturalism and Citizenship v. Marie-Lavila Julien unreported F.C.T.D. No. T-1177-91 November 1, 1992 . . . . .	707

